

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NOS.18840 AND 20929 OF 2007

Dated 05-10-2007

WRIT PETITION NO.18840 OF 2007

Between:

M/s Larsen & Toubro Limited

...Petitioner

And

The Commissioner of Commercial Taxes
And two others

...Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NOS.18840 AND 20929 OF 2007

COMMON ORDER (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties. Both these writ petitions are being disposed of by this common order.

Writ Petition No.18840 of 2007 has been filed seeking refund of the amounts for two assessment years and writ petition No.20929 of 2007 has been filed questioning the withholding of the excess tax by the respondents.

It appears that the petitioner claimed a refund of Rs.1,75,77,141/- in Writ Petition No.18840 of 2007. After this writ petition was filed, the respondents passed an order on 22-09-2007 informing the petitioner that the orders passed by the competent authority, by which he was entitled to refund, are being subjected to further revision before the Joint Commissioner and the Deputy Commissioner has directed withholding of the amounts till the revision is decided.

Learned counsel for the petitioner submits that the order of withholding is bad as it was passed malafidely after the petitioner has filed Writ Petition No.18840 of 2007 seeking refund. He also submits that a notice of revision had been given to the petitioner on 30-01-2006 and he had filed his objections. At that time, no order of withholding was passed and therefore, the order of withholding now passed could not be acted upon.

We do not agree with these submissions because in terms of Section 33-C of the Andhra Pradesh General Sales Tax Act, 1957 the authorities concerned can withhold the amounts if any further proceedings are pending. Admittedly a revision is pending and therefore, the order passed by the competent authority withholding the amounts cannot be faulted with. Even passing of this order of withholding of the amounts during the pendency of other writ petition will not make it bad and this Court cannot order refund when the revision against the order of refund is being pending and an order of withholding has been passed. In this view of the matter, both the writ petitions are dismissed. However, in the facts and circumstances of the case, we direct the revisional authority to decide the revision within a period of eight (8) weeks and within a period of three (3) weeks from today, the petitioner shall file reply to the show cause notice without any further directions from the revisional authority. No order as to costs.

Bilal Nazki,J

Dated 5th October, 2007

Ramesh Ranganathan,J

Note: Issue C.C in one week
(b/o)
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